

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHENG XIA WANG, CHUNLIN ZHANG, JUN
QING ZHAO, BAO GUO ZHANG, ZE JUN
ZHANG A/K/A ZEJUN ZHANG, GUOYI WANG,
TONG WEI WU, AND ZHI QIANG LU, ON
BEHALF OF THEMSELVES AND OTHERS
SIMILARLY SITUATED,

Plaintiffs,

v.

SHUN LEE PALACE RESTAURANT, INC. D/B/A
SHUN LEE PALACE; T&W RESTAURANT, INC.
D/B/A SHUN LEE WEST; JOHN HWANG;
MICHAEL TONG; BIN HU; AND WILLIAM
HWANG

Defendants.

Index No. 17-cv-00840

DECLARATION OF
GUISHENG SHI

I, Guisheng Shi, do hereby swear, affirm, and attest under the penalties of perjury
as follows:

1. I am over 18 years of age and competent to testify to the matters stated in
this declaration.
2. The information contained herein is based upon my personal knowledge.
3. I am currently employed as a delivery worker at Shun Lee West, located at
43 West 65th Street in New York.
4. I have worked as a delivery worker for Shun Lee West for the past six or
seven years. As a delivery worker, I am responsible for delivering take-out orders to
customers.
5. I currently work on a part-time schedule. I have only ever worked a part-
time schedule for Shun Lee West. Prior to working at Shun Lee West, I had a full-time

job. However, once I started working at Shun Lee West, I also began studying English part-time. After I finished studying English part-time, I began working at another restaurant part-time as well. Now I have two part-time jobs.

6. I only work during the dinner shift at Shun Lee West. During the lunch shift, I work at another restaurant called Gingers. I have worked there for about two or three years.

7. My schedule has generally been the same for the past few years. I typically work from 4:30 p.m. until 10:00 p.m. on Thursday, Friday, Saturday, and Sunday. I work from 6:00 p.m. until 11:00 p.m. on Monday. I do not work on Tuesday and Wednesday. I usually work about 27 or 28 hours a week. I almost never work more than 6 hours in a shift.

8. As a delivery worker, I rarely interact with any wait staff other than to just say hello. We do not speak to each other about private matters such as tips, wages, or anything having to do with earnings.

9. From what I can tell it is very rare for a delivery worker to work overtime. It is my understanding that some other delivery workers might have other jobs, like I do. I have occasionally worked overtime hours when I have served as a "back-up" delivery worker for other delivery workers who may be on vacation or who call in sick. When I have served as a back-up delivery worker, and if I have worked more than 40 hours in a week, I am paid overtime for any hours above 40 hours.

10. My manager is Mr. Rongfa Yu. He oversees me and all the delivery workers. He posts the schedule at the Restaurant on a weekly basis even though most

schedules are the same. Mr. Yu also is the person who distributes the Restaurant's take-out orders for the delivery workers to deliver to customers.

11. When I am unable to report to work, I try and notify Mr. Yu at least one day in advance. If I cannot report to work and I have been unable to give Mr. Yu advance notice, I try and find a backup delivery worker myself who can fill in for me.

12. I am part of a "tip pool" of the delivery workers only. This means that the delivery workers pool their tips and divide the amount of tips earned per shift by the delivery workers working during that particular shift. Therefore, it does not matter if you are a full-time or part-time delivery worker because the tip pay-out is based on each shift worked.

13. Shun Lee West pays me on a weekly basis. Rarely have I had an issue with my paycheck. If I have noticed something in my paycheck that was incorrect, I reported it to Jackie Toon, the person at Shun Lee West who is responsible for payroll. Ms. Toon has always promptly resolved any issues I've had with my paychecks, but again this rarely happens.

14. I am a tipped employee. I know that because I have been informed on various occasions, and was presented with and signed paperwork that explained that that I am a tipped employee. This means I am paid less than the regular minimum wage. I am paid the tipped minimum wage for all hours that I work. During a busy week, I make approximately \$70-\$80 dollars a day in tips. During a slower season, I will typically get about \$50 or \$60 dollars a day in tips.

15. I have always been able to understand my regular and overtime hourly rate and the amount taken for the tip credit. The Restaurant posts information related to the

minimum wage and tip credit. Therefore, I am aware of the applicable minimum wage and the tip credit that Shun Lee West is allowed to take.

16. I recall receiving notices of the tip credit and a summary of the way that Shun Lee West pays me. These notices were given to me in both English and Chinese.

17. I use a bike to make food deliveries. Although I use my own bike, I was never required to buy a bike to be a delivery worker. Because I use a bike, the radius for food delivery is typically ten blocks north or south and east and west, which is easily walkable, even in poor weather. On occasion, some delivery workers that have cars or motorcycles make deliveries as far north as 86th Street and as far south as 42nd Street.

18. I have not spoken to Mr. Hu. However, I have met him before. I have seen Mr. Tong in the restaurant and have said hello to him before, but otherwise we did not interact. Nor do I interact with John and William Hwang. I have never communicated with any of them to discuss my schedule, wages, bicycle, sick, or vacation time. These are issues that I discuss with Mr. Yu because he is my manager.

19. I do not interact with Shun Lee East employees and don't know anything about its policies.

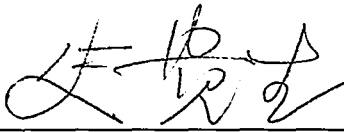
20. This declaration was prepared by counsel for Defendants in the action based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for the Defendants that I should sign this declaration if I want to and if everything within it is true and correct to the best of my knowledge, information, and belief. I have been given a full opportunity to review this declaration carefully and freely and make any corrections and additions of

any kind. I verify that the information I have provided in this declaration is true and correct.

21. This declaration has been translated to me in my native language of Chinese.

PURSUANT TO 28 U.S.C. § 1746, I VERIFY UNDER THE PENALTY OF PERJURY, UNDER THE LAWS OF THE UNITED STATES OF AMERICA, THAT THE FOREGOING IS TRUE AND CORRECT.

Date: March 1st, 2018


Guisheng Shi

美国纽约南区
联邦地区法院

CHENG XIA WANG、CHUNLIN ZHANG、JUN
QING ZHAO、BAO GUO ZHANG、ZE JUN
ZHANG（又名 ZEJUN ZHANG）、GUOYI
WANG、TONG WEI WU 和 ZHI QIANG LU 代表
他们本人及其他有类似境遇的人，

原告，

诉

SHUN LEE PALACE RESTAURANT, INC.（也称
SHUN LEE PALACE）、T&W RESTAURANT, INC.
（也称 SHUN LEE WEST）、JOHN HWANG、
MICHAEL TONG、BIN HU 和 WILLIAM HWANG

被告。

索引号 17-cv-00840

GUISHENG SHI
的声明

我 Guisheng Shi 特此发誓、确认并证实如下事项（如作伪证 愿接受处罚）：

1. 我已年满 18 周岁，具有证明本声明中陈述的事项的法定资格。
2. 本声明中所含信息基于我的个人认识。
3. 我目前作为送餐员受聘于位于纽约西第 65 街 43 号的 Shun Lee West。
4. 在过去六七年的时间里，我一直作为送餐员为 Shun Lee West 工作。

作为送餐员，我负责送递顾客的外卖订单。

5. 我目前在兼职工作。我曾经只为 Shun Lee West 兼职工作。在 Shun Lee West 工作之前，我曾经有过一份全职工作。不过，自从开始在 Shun Lee West 工作后，我也在利用部分时间开始学习英语。在我利用部分时间完成英语学习后，我又开始为另一家餐厅兼职工作。现在，我有两份兼职工作。

6. 我仅在 Shun Lee West 的晚餐班次期间工作。在午餐班次期间，我在另一家名为 Gingers 的餐厅工作。我在那里工作了大约两三年。

7. 我的时间安排在过去几年基本相同。在星期四、星期五、星期六和星期日，我通常从下午 4:30 一直工作到晚上 10:00。在星期一，我从下午 6:00 一直工作到晚上 11:00。在星期二和星期三，我不工作。我每周通常工作约 27 或 28 个小时。每个班次我几乎从不工作超过 6 个小时。

8. 作为送餐员，除了打招呼之外，我很少与任何服务员进行互动。我们不会互相谈论私事，例如小费、工资或任何与收入有关的事情。

9. 据我所知，送餐员几乎不会加班。我的理解是，其他一些送餐员可能还有其他工作，就像我一样。当其他送餐员在休假或因病请假时，我曾经担任过“替补”送餐员，因此偶尔会加班。当我担任替补送餐员时，如果我一周工作超过了 40 个小时，对于超过 40 个小时的任何小时数，我会收到加班工资。

10. 我的经理是 Rongfa Yu 先生。他监管我和所有送餐员。他每周都会在餐厅张贴时间安排，尽管大部分时间安排都是一样的。Yu 先生还负责向送餐员分派餐厅的外卖订单以送递给顾客。

11. 当我无法报到工作时，我尽力至少提前一天通知 Yu 先生。如果我无法报到工作，并且无法提前通知 Yu 先生，我会尽力自己找到一位替补送餐员来暂时代替我。

12. 我只是平分“小费池”的送餐员中的一员。这意味着送餐员将他们的小费汇集在一起，并将每个班次内所赚取的小费金额平分给在该特定班次期间工作的送餐员。因此，无论你是全职还是兼职送餐员，这并不重要，因为小费根据每个工作班次支付。

13. Shun Lee West 每周支付我一次工资。我很少有关于工资的问题。如果我注意到我的工资有任何不妥，我会向 Shun Lee West 负责工资单的 Jackie Toon 报告。Toon 女士总是及时解决我有关工资的任何问题，不过很少出现问题。

14. 我是一名有小费的员工。我知道这一点是因为我已在多种情况下得到通知，并且已经收到并签署了文件，其中说明了我是一名有小费的员工。这意味着我的工资低于正常的最低工资。对于我工作的所有小时数，都将按有小费的最低工

资支付工资。在繁忙的一周中，我每天大约能获得 70 至 80 美元的小费。在不是很忙的时期，我通常每天大约能获得 50 或 60 美元的小费。

15. 我一直能够理解我的正常和加班小时工资率以及小费信用额度。餐厅会张贴有关最低工资和小费信用的信息。因此，我了解 Shun Lee West 被允许采用的适用最低工资和小费信用。

16. 我记得收到过有关小费信用以及 Shun Lee West 向我支付工资的方式摘要的通知。这些通知是同时以英文和中文形式向我提供的。

17. 我使用自行车送餐。尽管我使用自己的自行车，但我从未被要求必须购买自行车才能成为送餐员。因为我使用的是自行车，所以送餐半径通常为向东、向西、向南或向北十个街区之内，即使在恶劣天气下也很容易步行送达。有时，一些有汽车或摩托车的送餐员可以向北送到第 86 街以及向南送到第 42 街。

18. 我没有与 Hu 先生讲过话。不过，我以前见过他。我以前在餐厅见过 Tong 先生，并与他打过招呼，但我们没有其他互动。我与 John 和 William Hwang 也没有过互动。我从来没有与他们中的任何人进行过沟通，以讨论我的时间安排、工资、自行车、病假或休假。这些都是我与 Yu 先生讨论的问题，因为他是我的经理。

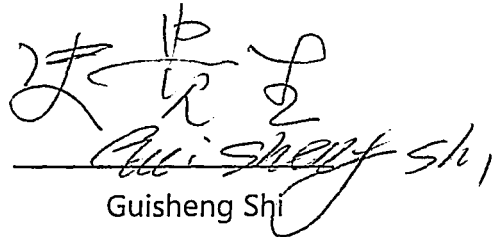
19. 我不与 Shun Lee East 员工互动，因此不知道有关其政策的任何内容。

20. 本声明由该诉讼中的被告律师根据我自愿参加的面谈起草。我被告知我可以随时结束面谈。被告律师还告知我，如果我愿意，并且如果根据我的认识、信息和信念，本声明中的任何内容都真实且准确的话，我应该签署本声明。我被给予了充分的机会来仔细且无拘束地审查本声明，并作出任何形式的更正和补充。我确认我在本声明中提供的信息真实且准确。

21. 已经为我以我的母语中文对本声明进行了翻译。

根据美国法典第 28 卷第 1746 条，我确认上述内容真实且准确（如作伪证愿根据美国法律接受处罚）。

日期：2018 年 3 月 19 日


Guisheng Shi

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STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss

CERTIFICATE OF TRANSLATION

This is to certify that the accompanying, to the best of my knowledge and belief, is a true and accurate translation into Chinese (Simplified), completed on March 16, 2018, of "Declaration of Guisheng Shi," originally written in English.


Despina Missetzis
Project Manager
Ubiquis Reporting, Inc.

Sworn to and subscribed before me,
This 16th day of March, 2018.



Notary Public

KEVIN N. HUDSON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01HU6209981
Qualified in Kings County
My Commission Expires 09-13-2021